

Office Action Summary

Application No.

10/534,094

Applicant(s)

GOMEZ CAUDEVILLA ET AL.

Examiner

MICHELE JACOBSON

Art Unit

1794

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 September 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 10, 12, 14-17 and 19-34 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 10, 12, 14-17 and 19-34 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☒ Interview Summary (PTO-413)
Paper No(s)/Mail Date 12/2/09
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Examiner Notes

1. Any objections and/or rejections made in the previous action, and not repeated below, are hereby withdrawn.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

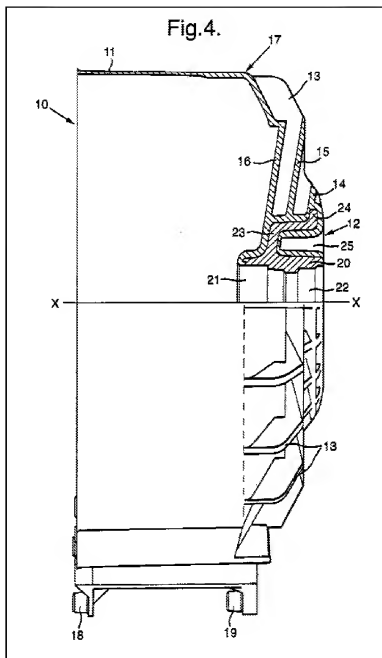
(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 10, 14, 15, 16, 17, 19, 20, 24, 30, 31 and 32 rejected under 35 U.S.C. 102(b) as being anticipated by Durazzani et al. UK Patent Application 2333300. (hereafter referred to as Durazzani).

4. Durazzani teaches a plastic tub (11), (12) for a domestic clothes washing machine produced by injection molding the tub directly on a metal bearing hub (shell) (20). (Pg. 3, line 22-Pg. 4, line 9, lines 19-21, Fig. 4)

5. Claims 10, 19, 24 and 30 of the instant application recite product-by-process steps in which the "plastic member" directly surrounding the bearing shell is formed in first injection molding step followed by a second injection molding step in which the remainder of the plastic washing machine tub is formed.

6. Although Durazzani does not disclose two separate injection molding steps to form the tub, it is noted that "[E]ven though product-by-process claims are limited by and defined by the process, determination of patentability is based on the product itself.



The patentability of a product does not depend on its method of production. If the product in the product-by-process claim is the same as or obvious from a product of the prior art, the claim is unpatentable even though the prior product was made by a different process", *In re Thorpe*, 777 F.2d 695, 698, 227 USPQ 964, 966 (Fed. Cir. 1985) . Further, "although produced by a different process, the burden shifts to applicant to come forward with evidence establishing an unobvious difference between the claimed product and the prior art product", *In re Marosi*, 710 F.2d 798, 802, 218 USPQ 289, 292 (Fed. Cir.1983). See MPEP 2113.

7. Regarding claims 10, 19, 24 and 30: In the instant case, a washing machine tub produced from a single polymer material that was produced from a single injection molding step would be indistinguishable from a tub produced from two injection molding steps. Therefore, Durazzani anticipates the limitations of claims 10, 19, 24 and 30.

8. Regarding claims 14-16: As can be seen in Fig. 4 of Durazzani (region between reference characters (21) and (23)), the plastic material of the tub overlaps the upper lip of the bearing shell and is therefore interpreted to anticipate the limitation that the plastic member cover a portion of the inside surface of the bearing shell as recited in claim 14. As shown in Fig. 4, the plastic of the tub clearly covers the entire outside surface of the bearing shell as claimed in claim 16. The ribs, (14) and (15) in Fig. 4, disclosed by Durazzani are interpreted to anticipate the limitation that the plastic member is formed with a plurality of ribs as recited in claim 15.

9. Regarding claim 17: Since, as described above, the "remainder of the plastic container" as delimited by applicant would be indistinguishable from the "plastic

member" claimed by applicant when the entire tub is formed of a single material, a container wherein the plastic member is a ring that surrounds at least one surface of the bearing shell and wherein a second portion of the bearing shell is contacted by the remainder of the plastic container as claimed in claim 17 would not be materially different from the container disclosed by Durazzani.

10. Regarding claim 20: A projection from the plastic member comprising the same material as the rest of the container forming an interlocking engagement with the container body would be indistinguishable from a container formed from a single material as disclosed by Durazzani.

11. Regarding claims 31 and 32: Durazzani clearly recites a bearing hub and therefore discloses a bearing shell that is "adapted to receive" bearings.

Claim Rejections - 35 USC § 103

12. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

13. Claims 12, 21-23, 25-29, 33 and 34 are rejected under 35 U.S.C. 103(a) as being unpatentable over Durazzani et al. UK Patent Application 2333300. (hereafter referred

to as Durazzani) and Cinello et al. European Patent Publication No. EP 219115 (hereafter referred to as Cinello).

14. Durazzani teaches what has been recited above but is silent regarding producing the plastic member surrounding the bearing hub from a different material as the rest of the washing machine tub and performing the injection molding of the washing machine tub in two steps. Durazzani also teaches that reinforcing ribs (**13**) and rings (**14**, **15**, **16**) are required in the base of the tub (**12**) for resistance to the mechanical stresses which are transmitted from the rotary drum to the tub during operation of the clothes washing machine. (Pg. 4, lines 24-27)

15. Cinello teaches a laundering tub characterized in that the two bearings and a spacer element of the tub are disposed within the sleeve made of a plastic material of higher mechanical resistance than that of the rest of the tub. (Col. 1, lines 52-55) The spacer element is an injection molded plastic element and the sleeve is injection molded around the two bearings and the spacer element after which the rest of the tub is injection molded around the sleeve with the bearings and spacer element disposed therein. (Col. 1, line 57-Col. 2, line 3) Only the sleeve of the invention has to be made of an expensive plastic material capable of sustaining the mechanical stresses acting on the bearings while the rest of the tub can be made of an inexpensive plastic material. (Col.2 lines 7-11) The tub of the invention is adapted to contain a rotatable drum. (Col. 2, line 39) The finished tub is thus made of two different types of plastic material, namely, a more expensive first type having a high resistance against mechanical stresses, only a limited amount of which is employed for injection molding the portion

supporting the drive shaft of the drum, and a less expensive second type having a lesser resistance against mechanical stresses than the previous one, which is injection molded about the plastic material of the first type at a sufficient amount for forming the remainder of the tub. (Col. 3, lines 40-49)

16. Both Durazzani and Cinello are directed to washing machine tubs. Cinello teaches that it was known in the art at the time the invention was made to utilize stronger plastic material in washing machine tub parts that are subjected to higher mechanical stresses acting on them than the plastic used for the remainder of the tub. Durazzani also identified the importance of providing increased reinforcement in the area of the tub that undergoes increased mechanical stress. One of ordinary skill in the art at the time the invention was made would have been motivated to produce the rear area of the tub of Durazzani that undergoes increased mechanical stress from a different, stronger material than the remainder of the tub as taught by Cinello in order to increase the resistance of this region to mechanical stress and lower production cost by decreasing the amount of more expensive, stronger plastic necessary for the tub.

17. Regarding claims 12, 21-23, 25, 27 and 28: It would have been obvious to one having ordinary skill in the art at the time the invention was made to have produced the tub of Durazzani by utilizing a two step injection molding process in which the reinforced areas of the tub (**12**) were produced first from a stronger plastic followed by injection molding the remainder of the tub (**11**) from a weaker, less expensive plastic material. Such a modification of Durazzani by the teachings of Cinello would have produced the

article claimed in claims 12 and 21-23 by the same method as claimed in claims 25, 27 and 28.

18. Regarding claims 26 and 29: As shown in Fig. 4 of Durazzani, the employment of a projection (**23**) on the bearing hub increases the engagement between the plastic end disc (**12**) and the bearing hub. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have employed this same technique of providing a projection on the end disc (**12**) that the remainder of the tub could be injection molded around in order to increase the engagement between the materials for the end disc and the remainder of the tub (**11**). The use of this technique would have produced the same method claimed in claim 26. It would also have been obvious to one having ordinary skill in the art at the time the invention was made to have allowed such a projection to at least partially cure so that the structural integrity of the projection would be maintained during the second injection molding step. This logical modification would have produced the same method as claimed in claim 29.

19. Regarding claims 33 and 34: Durazzani clearly recites a bearing hub and therefore discloses a bearing shell that is "adapted to receive" bearings.

Response to Arguments

20. Applicant's arguments with respect to claims 10, 12, 14-17 and 19-34 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MICHELE JACOBSON whose telephone number is (571)272-8905. The examiner can normally be reached on Monday-Thursday 8:30 AM-7 PM EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rena Dye can be reached on (571)272-3186. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Michele L. Jacobson
Examiner /M. J./
Art Unit 1794

/Rena L. Dye/
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